

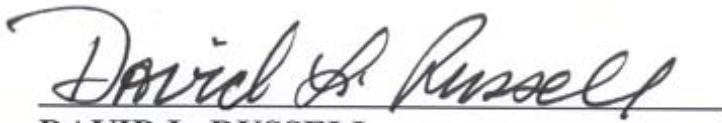
**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**DONALD RAY MILLER,** )  
                                )  
                                )  
**Petitioner,**              )  
                                )  
                                )  
**v.**                         )                           **CIV-13-1048-R**  
                                )  
                                )  
**HECTOR RIOS, Warden,** )  
                                )  
                                )  
**Respondent.**            )

**ORDER**

Petitioner filed this action challenging his state conviction, which pursuant to 28 U.S.C. § 636(b)(1)(B), was referred to United States Magistrate Judge Shon T. Erwin for preliminary review. On January 31, 2014, Judge Erwin issued a Report and Recommendation wherein he recommended that the petition, which had been filed pursuant to 28 U.S.C. § 2241, be construed as having been filed pursuant to 28 U.S.C. § 2254, and that it be denied as untimely. The record reflects that Petitioner has not objected to the Report and Recommendation within the time limits prescribed therein, nor has he sought an extension of time in which to respond. Accordingly, the Report and Recommendation is hereby ADOPTED in its entirety, and the petition is DISMISSED as untimely.

IT IS SO ORDERED THIS 24th day of February, 2014.

  
**DAVID L. RUSSELL**  
**UNITED STATES DISTRICT JUDGE**